REMARKS/ARGUMENTS

The Examiner is thanked for his review of the application.

Claims 1-6, 9-11, and 13-20 remain in this application. Claims 1, 3, 13, 14, 16, and 20 have been amended. Claims 7, 8, 12, 21-24 have been canceled without prejudice.

The Examiner has stated that "with respect to an IDS submitted on 10/7/02, the examiner has attempted to locate copies of the non-patent literature that was cited in the IDS; however, the copies have not been located." As requested, Applicant mailed copies of the non-patent literature directly to the Examiner on December 14, 2004 via USPS Priority Mail.

The Examiner has rejected Claims 14-21 under 35 USC 101 stating that "the claimed invention is directed to non-statutory matter. The basis of this rejection is set forth in a two prong test of: 1) Whether the invention is within the technological arts; and 2) Whether the invention produces a useful, concrete, and tangible result."

Claim 20 has been amended to be in independent form and now recites a "computer-implement method for computing a set of feasible rules" (emphasis added), and hence now conforms to 35 USC 101. Similarly, Claims 14-19, which now depend on amended Claim 20, now also conform to 35 USC 101. Claim 21 has been cancelled without prejudice.

The Examiner has rejected claims 22, 23 under 35 USC 101 stating that "the claimed invention is directed to non-statutory subject matter." Claims 22 and 23 have been cancelled without prejudice.

The Examiner also rejected Claims 3, 16 under 35 USC 112, first paragraph stating that they fail "to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has recited that the computer code selects products that provide the 'greatest optimization' for any set of products."

Amended Claims 3 and 16 now recite "provides an optimization of total profit" and now clearly recites the claimed invention. Support for this feature can be found in the Applicants' specification on page 10, lines 4-7.

The Examiner has rejected Claims 3-8, 12, 13, 16, 19, 22, 23 under 35 U.S.C. 112, second paragraph stating that they are "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention."

As discussed above, Claims 3 and 16 have been amended and are now clearly recites the claimed aspect of the present invention. Claims 4-6 depend on Claim 3 and are also now in compliance with 35 U.S.C. 112. Claims 7, 8, 12 have been cancelled without prejudice.

With respect to "bound data" as recited by Claims 6 and 19, a detailed discussion of "bounds" and how it relates to pricing optimization appears in the specification starting on page 29, line 17 through page 33 line 3 in a sub-section entitled "Construction of the Set of Candidates for Subset Optimization".

The Examiner also rejected Claims 22 and 23 under 35 U.S.C. 112. Claims 22 and 23 have been cancelled without prejudice.

Claims 1-24 have been rejected under 35 U.S.C. 102(b) as "being anticipated by Reuhl et al. (5873069)." The Examiner states that, "For claims 7, 12, 20, the claimed rule relaxation is satisfied by the fact that Reuhl discloses that a 'family discount' may be entered into the system. This allows one to violate the pricing rule of the 'lowest price' and set the price even lower because of the family discount. For claims 8, 13, the code for allowing one to prioritize rules and code for relaxing at least one rule is satisfied by the fact that one can override the price of an item (i.e. family discount). The PRICE CHANGE option allows one to do what is claimed. The language 'for allowing....' and 'for relaxing' is functional language that is satisfied by Reuhl."

Claims 13 and 20 have been amended into independent form and now recite "prioritizing a plurality of rules;", "identifying at least one lower priority infeasible rule from the plurality of rules;" and "relaxing the at least one lower priority infeasible rule and any infeasible rule of the plurality of rules which has a lower priority than the at least one lower priority infeasible rule to allow a higher priority rule of the plurality of rules to become feasible" (emphasis added).

In contrast, Reuhl '069 teaches that a "price exception may include an employee or family discount price or floor sample price, e.g., "demo" model, price. Such prices while

maintained in the database 114 **may not effect** the pricing and repricing accomplished by the pricing program 204" (col. 0, lines 7-11) (emphasis added). In other words, the Reuhl price exceptions are an **autonomous process** from the Reuhl pricing computation, i.e., the Ruehl price **overrides** appear to be a means for **ignoring** all the pricing rules and pricing data generated by the Reuhl pricing program, in order to be able to offer specially discounted prices, such as employee discounts or floor samples, regardless of profitability.
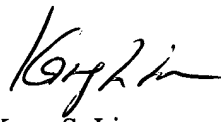
The present invention does not simply ignore all the pricing rules. Instead, Applicants' invention selectively and gradually **relaxes lower priority rule(s) until a feasible solution** can be found that conforms to as many higher priority rules as possible so as to **optimize prices** (see Figure 6 and page 21 lines 7-12 of specification.). Hence independent Claims 13 and 20 are both allowable over Reuhl '069. Similarly, Claims 1-6, 9-11 which depend on Claim 13 and Claims 14-19 which depend on Claim 20 are all also allowable over Reuhl for at least the same reasons discussed above for Claims 13 and 20. Claims 7, 8, 12, 21-24 have been cancelled without prejudice.

In sum, Claims 1-6, 9-11, and 13-20 remain in this application. Base claims 13 and 20 have been amended are now believed to be allowable. Dependent Claims 1-6, 9-11, 14-19, which depend therefrom are also believed to be allowable as being dependent from their respective patentable parent claims 13 and 20 for at least the same reasons. Claims 7, 8, 12, 21-24 have been cancelled without prejudice.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. The commissioner is authorized to charge any fees that may be due to our Deposit Account No. 50-2766 (Order No. DEM1P009). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number 925-570-8198.

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